

**REPORT TO THE DIRECTOR OF COMMUNITIES  
PROPOSAL TO CONSULT ON A VARIATION TO THE PUBLIC SPACES  
PROTECTION ORDER (PSPO) ON HOVENDEN GARDENS**

**1. Subject**

- 1.1 Proposal to consult on a variation to the current Public Spaces Protection Order for Hovenden Gardens to restrict additional access to a section of an alleyway blighted by anti-social behaviour.

**2. Summary of issues**

- 2.1 Nottingham City Council's ("the Council") ambition is for all those living in, working in, or visiting the City to enjoy safe, clean, vibrant, and attractive public spaces.
- 2.2 In 2012, Nottingham City Council approved the making of a Gating Order (GO5010) under Section 129A of the Highways Act 1980 to close off a small area of Hovenden Gardens situated directly under one of the flats following a large amount of anti-social behaviour, drug activities and environmental issues caused by individuals visiting this particular sheltered location. In 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") replaced the Gating Orders, making them into Public Spaces Protection Orders (PSPO) which are in place for a maximum period of three years. Furthermore, on 3<sup>rd</sup> October 2020 the Council approved the making of an extension to that PSPO meaning that it is now in force to 18<sup>th</sup> October 2023. A copy of this PSPO is attached at Appendix 1 alongside a photograph showing the gates in situ to give a visual understanding of the existing PSPO (Appendix 2).
- 2.3 The making of the Gating Order in 2012 (and subsequent PSPO) was successful in removing the problems caused by people gathering in this area and causing significant anti-social behaviour to local residents.
- 2.4 By 2016 however, there has been a resurgence of anti-social behaviour in the area with visitors no longer gathering under the flat but instead, they have begun to gather in the small alleyway that runs from Brushfield Street up through Hovenden Gardens. Within this alleyway is a small set of steps where individuals have begun to sit to deal and take drugs, carry out sexual acts, drink alcohol and discard their empty bottles and cause anti-social behaviour. Near these steps is a very small recessed area that accesses a resident's property and this area allows individuals to hide from view. A map of this location is now shown as Appendix 3 with the alleyway in question, highlighted in red. As can

be seen by this map, the small recessed area is at the centre junction of the alleyway on the top left.

- 2.5 [REDACTED] is a resident of Hovenden Gardens and he has given a detailed statement showing the behaviours that he and his family have witnessed over the past few years. A copy of this statement is attached at Appendix 4. Attached to his statement and at Appendix 5 is a file depicting 80 photographs that have been taken by Mr Draper evidencing the individuals gathering in the alleyway, drinking, smoking, apparent drug taking and littering.
- 2.6 PC Mark Tindall is the Beat Manager for the area and he has also given a statement from a Policing perspective evidencing the number of calls made through to Nottinghamshire Police regarding the anti-social behaviour and issues reported within this alleyway. A copy of his statement is attached at Appendix 6.
- 2.7 CPO Craig Moralee is the Community Protection Officer for the area in question. He has also given a statement detailing the behaviours that have been reported to the Council, those that he has witnessed and behaviours that have been brought to his attention from residents complaining on Social Media. His statement is attached at Appendix 7 and the Report detailing over 50 complaints made to the Council in the past year is shown at Appendix 8.
- 2.8 At Appendix 9 is a statement from the local Housing Patch Manager for Nottingham City Homes, Terri-Ann France, who details her involvement in the reports of anti-social behaviour.
- 2.9 In order to gather as complete a picture as possible, I have also contacted the local Neighbourhood Operations Manager for Street Scene who manages the team of cleansing specialists in the area. His report attached at Appendix 10 shows that 131 instances of fly-tipping have been reported in this particular area, 22 instances of dog fouling, one instance of a needle needing collection and 1 instance of street sweeping needed.
- 2.10 As can be seen by the evidence collated so far, it is clear that the behaviours occurring within this alleyway on Hovenden Gardens are incredibly detrimental to those living in the vicinity and to the environment. The behaviours are persistent and have been continuing for several years and they are unreasonable. Closing off the alleyway from public use is therefore a justified action.
- 2.11 There is an alternative route around the road from Birkin Avenue to Brushfield Street, as shown on the attached map (appendix 3) which is the same length as the alleyway. As such closing off the remaining section of alleyway will be of little or no detriment.

### **3. Recommendations**

- 3.1 That the Director notes the evidence gathered in respect of the anti-social behaviour within the locality described.
- 3.2 Approve the ASB Team to consult on the proposals to vary the Public Spaces Protection Order on Hovenden Gardens extending it slightly to that area depicted on the Map attached at Appendix 3.

### **4. Reasons for recommendations**

- 4.1 There is a need to prohibit anti-social behaviour within communities in Nottingham and in particular, to prohibit drug dealing, drug taking, overt sexual activities and public urination/defecation.
- 4.2 The variation of the PSPO would provide an additional tool to be used in the prevention and detection of crime, the prevention of anti-social behaviour and the reduction of environmental crime.
- 4.3 The variation would remedy the problems caused by anti-social individuals causing nuisance and disorder within the alleyway on Hovenden Gardens. By closing off this area, individuals would no longer be able to congregate in this secluded spot to take/deal drugs, to carry out sexual acts or to behave in an anti-social manner. This will support those individuals in rehabilitating and provide a much needed respite for those living in the vicinity.
- 4.4 It is an offence to fail to comply with the restrictions imposed by a PSPO without a reasonable excuse, with an authorised officer's request, or enter the alleyway without authority to do so. Penalties include a Fixed Penalty Notice being issued of £100 (with a £50 reduction if paid within 10 days) or a fine of up to £1000 following prosecution.
- 4.5 The City Council, in conjunction with Nottinghamshire Police already utilise various intervention techniques to help prevent anti-social behaviour, nuisance and annoyance occurring. The proposed variation will assist and strengthen the approach taken by these agencies against those who choose to continue to act in an irresponsible manner in this area, by prohibiting them access to the secluded hidden section of the alleyway.

### **5. OPTIONS**

- 5.1 Doing nothing would leave the situation in the same state as currently. 'Nothing' is what residents feel has been done over the previous year or so and the behaviours have continued, and increased in terms of seriousness, shocking in nature and detrimental to both citizens and the environment.
- 5.2 As the alleyway is a "right of way" for the public, the Council cannot install gates to restrict access to this alleyway without the powers conferred under the Act.

## 6. BACKGROUND

- 6.1 Under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, local authorities may make an Order if satisfied that on reasonable grounds:-
- a) Activities in a public place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in the locality and they will have that effect.
  - b) The effect or likely effect, of the activities is, or is likely to be persistent or continuing in nature,
  - c) Is, or is likely to be unreasonable,
  - d) And justifies the restrictions being imposed.
- 6.2 A PSPO can prohibit certain things being done in the restricted area and/or require certain things to be done by persons carrying on specified activities in that area
- 6.3 The prohibitions or requirements must be reasonable, to prevent the detrimental effect from occurring, continuing, or recurring, or to reduce that detrimental effect or to reduce the risk of it occurring, continuing, or recurring.
- 6.4 A prohibition or requirement may apply:
- a) To all persons, persons in specified categories, all persons except those in specified categories;
  - b) At all times, at specified times, or at all times except those specified
  - c) In all circumstances, in specified circumstances, or in all circumstances except those specified
- 6.5 A PSPO must identify the activities and specify the period for which the order has effect. It must be published in accordance with regulations made by the Secretary of State.
- 6.6 A PSPO can last for up to 3 years, after which time it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further 3 years. There is no limit on the number of times an Order may be reviewed and renewed. The council can also vary the area covered by the prohibitions in the PSPO.
- 6.7 The Legislation sets out a number of additional requirements for the consultation and communication before an Order is introduced, once it is implemented and where it is extended, varied or discharged. PSPO's can be legally challenged under the 2014 Act on certain grounds.

- 6.8 Section 67 of the Act provides the Police and authorised officers (namely Community Protection Officers) with the power to deal with anti-social behaviour, nuisance and disorder in areas where PSPO's have been introduced under section 59 of the Act. Section 67 makes it an offence for a person without reasonable excuse to do anything that the PSPO prohibits them from doing or fail to comply with a requirement. Failure to comply with the officer's request becomes an arrestable offence that can result in a fixed penalty notice or a fine.
- 6.9 To aid citizens in complying with the proposed Order, it is proposed that the alleyway will be closed off to members of the public by use of locked gates at either entrance. Affixed to the gate will be a sign clearly depicting the Order and consequences for breaching the Order. A copy of the proposed sign is attached at Appendix 11.
- 6.10 In order for the alleyway to be maintained properly, residents who have direct access to properties adjoining the alleyway will have keys and be able to use the alleyway for moving of bins and household waste for collection, for maintaining boundaries, shrubs and bushes and for maintaining fences.
- 6.11 Nottingham City Council has 13 Gating Orders at Bentinck School, Beverley Square, Botany Avenue, Camomile Gardens, Candle Meadow, Dane Court, Haswell Road, Holland Street, Hovenden Gardens (as detailed above), Kilnwood Close, Neston Drive, Portland Road and Smedley Close, all of which became PSPOs under the Act and extended in 2020 to last a further three years to October 2023.

## **7. CONSULTATION PROCESS**

- 7.1 It is proposed to consult the list of statutory consultees which will include the Police, Nottingham City Homes and any other partners and organisations that may be affected by the making of the varied Order. It is proposed that reasonable steps are taken to consult with the owners and occupiers of the land adjacent to the alleyway and all those in the locality who may be affected by the PSPO by way of posting letters through all doors in the vicinity. It is proposed that all residents living in the vicinity of Hovenden Gardens, Brushfield Street, Birkin Avenue and Hazelwood Road would be formally consulted with letters through the letterbox. Notification will also be posted on the relevant lampposts at all entrances to the alleyway and adjoining alleyways and details of the proposals would be uploaded to the Council's website. A copy of the proposed Notice to consult is attached at Appendix 12 alongside a copy of the proposed consultation questionnaire which is attached at Appendix 13.
- 7.2 Relevant representations in relation to whether or not the PSPO should be varied will be invited. Any representations received at the expiry of the consultation period will be reported back to the Director of Communities. A consultation period of 5 weeks is proposed. If a variation to the existing Order is recommended following consultation, the order to vary cannot be made until

at least 28 days have passed after publication of a final Notice of variation on the Council's website.

- 7.3 Evidence has and continues to be collated by Community Protection and Police colleagues. This evidence will be reviewed and considered before being made available to view prior to seeking the full Order to vary the existing PSPO. A copy of all evidence will be made available to the Portfolio Holder if the consultation shows support for the proposals to be introduced. The Council's procedure is that the final decision on whether to introduce the PSPO will be made via a Portfolio Holder Decision.

## 8. CONVENTION RIGHTS

- 8.1 As required by the Act, the Council has had particular regards to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights, as well as having regard to other freedoms and rights contained within the Convention
- 8.2 Human rights contained in the Convention can often conflict and need to be balanced to protect both individuals and the wider society. There is an expectation that those asserting rights will behave responsibly and to respect the rights of others.
- 8.3 The terms of the proposed PSPO attempt to balance those competing human rights and impose only reasonable and proportionate restrictions on accessing the alleyway in question so as to safeguard the rights of residents, other individuals and the wider society.

## 9. EQUALITY IMPACT ASSESSMENT (EIA)

- 9.1 An Equality Impact assessment has been carried out and is attached at Appendix 14

## 10. COST

- 10.1 Should the consultation return support and approval for the implementation of the proposed variation to the PSPO the Council general fund will cover the cost to any structural installation.

## 11. APPROVAL TO CONSULT AUTHORISED?

Yes

No

SIGNED

DATE



02/03/2023